

Addison County Regional Planning Commission

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October 25, 2013

Public Service Board
Attention Susan Hudson, Board Clerk
112 State Street
Drawer 20
Montpelier, Vermont 05620-2701

Re: In re: Petition of Vermont Gas Systems, Inc., Addison Natural Gas Project
Docket # 7970

Dear Susan:

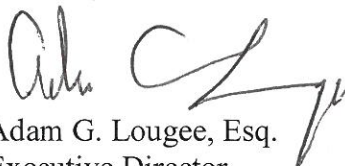
Enclosed for filing in the above matter please find the Reply Brief of the Addison County Regional Planning Commission ("ACRPC") in the above noted matter and seven copies thereof.

Please note that pursuant to the Certificate of Service attached hereto on this date, electronic copies of this package were forwarded to all other parties on the Service List in this proceeding, except for those requesting paper copies who were served via first class US mail.

If anything further is required at this time, please contact me.

Thank you.

Sincerely,


Adam G. Lougee, Esq.
Executive Director

Cc (w/encl): Service List in PSB Docket #7970

Addison
Lincoln
Salisbury

Bridport
Middlebury
Shoreham

Bristol
Monkton
Starksboro

Cornwall
New Haven
Vergennes

Ferrisburgh
Orwell
Waltham

Goshen
Panton
Weybridge

Leicester
Ripton
Whiting



IN THE PUBLIC SERVICE BOARD

Petition of Vermont Gas Systems, Inc.,
requesting a Certificate of Public Good pursuant
to 30 V.S.A. § 248, authorizing the construction
of the **“Addison Natural Gas Project”**
consisting of approximately 43 miles of new
natural gas transmission pipeline in Chittenden
and Addison Counties, approximately 5 miles of
new distribution mainline in Addison County,
together with three new gate stations in
Williston, New Haven, and Middlebury,
Vermont

**REPLY BRIEF OF
THE ADDISON COUNTY REGIONAL PLANNING COMMISSION**

The Addison County Regional Planning Commission (“ACRPC”) submits the following Reply Brief in the above captioned proceeding.

Introduction:

ACRPC believes Vermont Gas Systems, Inc. (“Vermont Gas”) has met its burden with respect to all of the criteria of 30 V.S.A. §248, provided the Board approves Vermont Gas’s application for a Certificate of Public Good for Phase I of the ANGP, subject to appropriate findings and conditions, including those contained within the Memorandum of Understanding between Vermont Gas and ACRPC (the “MOU”). Within that context, ACRPC urges the Public Service Board to require Vermont Gas to provide each local emergency response agency servicing territories encompassing the transmission and distribution systems anticipated by Vermont Gas’s Phase I application

with dedicated methane gas detection meters and the ancillary equipment necessary to maintain and calibrate those meters; and non-sparking wrenches to allow the responders to shut off gas meters. Lastly, while the findings in the docket should support the development of bio-methane and its incorporation into Vermont Gas's system, the Board should refrain from dictating how that is accomplished at this time.

I. Orderly Development of the Region; Service to the Communities of Monkton, New Haven, Bristol and East Middlebury

In its Brief, specifically proposed Findings 66-71, Vermont Gas cites the MOU it entered with ACRPC, but paraphrases from MOU rather than incorporating its terms directly. ACRPC believes any findings adopted by the Board should precisely reflect the content of the MOU, which, in its pertinent parts, reads as follows:

NOW THEREFORE, in consideration of the covenants noted above and other good and valuable consideration, the parties agree to jointly request that the Public Service Board incorporate the following conditions into any final order issuing a Certificate of Public Good authorizing construction of the project.

1. Vermont Gas recognizes the public benefit of providing gas distribution infrastructure to the most densely populated areas of each of the municipalities through which its transmission line will pass and in addition to supplying distribution to the City of Vergennes and Town of Middlebury as contemplated by its application, hereby agrees to provide the infrastructure necessary to provide gas distribution service to a generally designated portion of each of the following communities under the conditions and dates listed:
 - a. Subject to receipt of all necessary permits and approvals, VGS shall construct and operate a distribution network within the Towns in the locations set forth in Appendix A (Maps of Initial Town Distribution network for the towns of Monkton, New Haven, Bristol and East Middlebury). VGS shall take those steps reasonably necessary to obtain all the permits and approvals to construct and operate the Initial Town Distribution networks described in Appendix A.
 - b. VGS shall pay for all costs related to the construction and operation of these Initial Town Distribution networks including, but not limited to, the related infrastructure such as a gate station to provide future service to the towns; provided, however, that if an individual service connection is in excess of 100

feet, VGS' tariff regarding customer service extensions will apply. Ratepayers within the towns will not be responsible for the payment of the capital expenses necessary to construct and operate the Initial Town Distribution networks, except with respect to applicable tariff charges.

- c. VGS shall use reasonable best efforts to complete construction of the Initial Town Distribution network within Monkton, New Haven, and Bristol two years from the conclusion of construction and gasification of the Addison Natural Gas Project (ANGP) transmission line to Middlebury. VGS anticipates completing this by the end of 2014 and therefore would anticipate completing the Initial Town Distribution networks two years later, by the end of 2016. VGS shall use reasonable best efforts to complete construction of the Initial Town Distribution network in East Middlebury three years from the conclusion of construction and gasification of the ANGP transmission line to Middlebury. Based on the 2014 completion date, the East Middlebury Initial Town Distribution network would be constructed in 2017.

ACRPC Supp.TB-2.

First, the text of the MOU specifically states, *"the parties jointly request that the Public Service Board incorporate the following conditions into any final order issuing a Certificate of Public Good authorizing construction of the project."* Id. (emphasis added).

In fact, in its proposed finding 201 on page 32 of Vermont Gas's Brief, Vermont Gas acknowledges that, "The MOU provides that VGS' CPG should be conditioned to include all of the provisions contained in the MOU." Brief, Vermont Gas 10 11 13 at p. 32. ACRPC requests that the Board honor the language of the MOU and quote directly from it. Second, potential, but important, differences exist between Findings 66-69 proposed by Vermont Gas and the MOU itself. The "reasonable best efforts" clause included in Vermont Gas's proposed findings refers only to Vermont Gas's ability to construct the distribution systems in Monkton, New Haven and Bristol within a two year timeframe and East Middlebury within a three year timeframe. ACRPC Supp. TB-2 at Sub-paragraph 1(c) quoted above. In the MOU, "reasonable best efforts" does not modify

Vermont Gas's duty to provide the gas distribution service to specified service areas in each community. That duty is subject only to Vermont Gas's ability to secure permits. See Id. at Subparagraph 1(a) quoted above. Lastly, the MOU specifically contains maps of the proposed initial distribution areas as Appendix A, which should be incorporated into the findings. Id. and at Appendix A thereto. ACRPC recognizes that these service areas will be subject to change based upon customers, but Vermont Gas's proposed finding #70, must be subordinate to the context of the overall service areas identified in the MOU. To find otherwise, would render the service areas and the commitment to serve meaningless.

ACRPC's support for the project was specifically conditioned upon the Board's incorporation of the terms of the MOU within the decision. Accordingly, ACRPC specifically requests that the Board reject Vermont Gas proposed findings 66-70 and incorporate the terms of the MOU in their place.

II. Proper Equipment for First Responders.

Vermont Gas's proposed findings 203, 204, 313 and 314 all propose denying gas detection meters and non-sparking wrenches to the first response community in the Addison Region impacted by the pipeline largely based upon Mr. Berger's testimony that tools and meters should only be used by professionals with appropriate expert training. Tr. 9/17/13 at 17-18 (Berger). They fail to take into account that Mr. Bouton's testimony that first responders in Vermont receive significant training every year. Tr. 9/19/13 at (Bouton). More importantly, they fail to take into account that in the MOU between ACRPC and Vermont Gas, in which Vermont Gas agreed "To provide training for each

fire department whose service territory will host either the transmission line or distribution lines.” ACRPC Supp. TB-2, Sub-paragraph 5. Vermont Gas has an excellent safety record and has presented credible testimony that it will build this pipeline to exacting standards. However, accidents happen. First responders in Addison County arrive on scene in ten minutes. ACRPC test. 6 1313 (Bouton) at p.12. “Vermont Gas has agreed that its response times shall be the same for Addison County as for Chittenden and Franklin Counties. ACRPC Supp. TB-2 at Sub-paragraph 10. On average, that will leave Addison County’s first responders on scene waiting for Vermont Gas for over 20 minutes. I would ask that the Board put themselves in the shoes of the first responders whose mission is to preserve life and property. Wouldn’t you want cost effective tools that would allow you to make both quantitative and qualitative decisions regarding the scope of the hazard you faced? Wouldn’t you also want the ability to shut off gas to a house on which you were called to respond? Vermont Gas acknowledges that 30 V.S.A. 248(b)(5) requires that the Board find that the Project will not have an undue effect on public health and safety before issuing a certificate of public good. It also recognizes that there are potential risks associated with the installation and operation of a natural gas pipeline. Brief, Vermont Gas p. 51. No reason exists to fail to properly equip the first responder community with relatively inexpensive, readily available equipment to detect and respond to risks posed by this substantial infrastructure investment.

III. Bio-methane.

ACRPC would also like to comment on the discussion of bio-methane contained in DPS’s brief. DPS correctly notes that this project can support the development of bio-methane. DPS pf (Poor) at 8. ACRPC concurs with this statement and supports Vermont

Gas's work to incorporate biogas into its system. ACRPC Supp. TB-2, sub-paragraph 4.

However, ACRPC would request that the Board refrain from incorporating PSB's suggestion that Vermont Gas file a program similar to the Cow-Power program into its decision. Brief, DPS at 31. The record does not indicate that any suppliers of bio-methane were represented in this proceeding. Similarly, while bio-methane was discussed briefly and generally in this docket, any testimony regarding the pricing that would govern that market was merely ancillary to the discussion of Vermont's Gas compliance with the State's Comprehensive Energy Plan. The record simply does not support the request. It is better left to other dockets in which those directly affected may participate.

IV. Conclusion

VT Gas has satisfied its burden of proof with respect to the criteria necessary for the Board to issue it a certificate of public good provide the Board approves Vermont Gas's application for a Certificate of Public Good for Phase I of the ANGP, subject to appropriate conditions including those findings contained within the Memorandum of Understanding between VT Gas and ACRPC.


The Board should also require Vermont Gas to provide each local emergency response agency servicing territories encompassing the transmission and distribution systems anticipated by Vermont Gas's Phase I application with:

1. dedicated methane gas detection meters and the ancillary equipment necessary to maintain and calibrate those meters; and,

2. Non-sparking wrenches to allow the responders to shut off gas at the meter,
if they deem that action appropriate.

Lastly, the Board should incorporate the findings that Vermont Gas's project will support the development of bio-methane, but refrain from requiring further action by Vermont Gas supporting any particular pricing model.

Dated October 25, 2013.



Adam G. Lougee, Esq. on behalf of the
Addison County Regional Planning Commission